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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,793	02/09/2004	Michael Henry Horton		9041

7590 04/28/2005
Philip Horton
2119 Grenadier
Troy, MI 48098

EXAMINER

MILLER, WILLIAM L

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,793

Applicant(s)

HORTON, MICHAEL HENRY

Examiner

William L. Miller

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Objections

2. Claims 2, 5, and 6 are objected to because of the following informalities: claim 2, "the individual...pieces" lacks antecedent basis; claim 5, delete parenthetical phrase; and claim 6 must be in one sentence form only. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claims 5-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding claims 5-7, the phrase "may be" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. *For purposes of examination, the limitations following the phrase "may be" are not being considered as part of the claimed invention.*

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dennis (US#6200507) in view of Riedel II (US#5732452).

7. Regarding claim 1, Dennis discloses a monolithic single-layer cremation urn (Fig. 1). Dennis discloses the urn is made of a curable resin material to achieve a stone appearance (col. 1, lines 26-27), but fails to specifically disclose the resin material as acrylic with mineral filler. The applicant is reminded the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). In any event, Riedel discloses a monolithic cremation urn wherein the outer layer 11 thereof is made of acrylic with mineral filler to achieve a stone appearance (col. 3, lines 24-38). The acrylic with mineral filler material provides a durable outer layer which withstands deterioration (col. 3, lines 45-55). Therefore, as taught by Riedel, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dennis such that the urn was made of acrylic with a mineral filler to promote durability and to withstand deterioration.

8. Regarding claim 2, Dennis discloses pieces 10 and 14 are bonded together. Although Dennis fails to disclose a specific bonding method such as utilizing epoxy, cement, or silicone,

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the applicant is reminded method limitations are given little patentable weight in an article claim as the patentability of a product does not depend on its method of production. See MPEP 2113.

9. Regarding claim 3, Dennis discloses the remains are accessible only via destroying the urn (col. 2, lines 15-16).

10. Regarding claim 4, Dennis discloses per Figs. 1 and 2 the external mating seams between its pieces are "effectively imperceptible" to the naked eye.

11. Regarding claim 5, the urn disclosed by Dennis is capable of being constructed in varying sizes, shapes, colors, and patterns.

12. Regarding claim 6, the urn disclosed by Dennis is capable of having indicia etched therein.

13. Regarding claim 7, the urn disclosed by Dennis is capable of having profiles added thereto via a tool.

14. Regarding claim 8, Dennis, as modified, discloses the acrylic with mineral filler material resists degradation to environmental conditions.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is (571) 272-7068.

The examiner can normally be reached on Tuesday-Thursday.

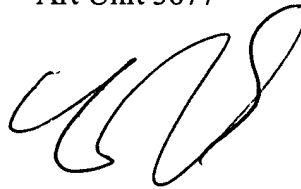
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703 306 4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William L. Miller
Primary Examiner
Art Unit 3677

WLM

A handwritten signature in black ink, appearing to be 'WLM', located below the printed name of the examiner.